

## HOUSE BILL NO. HB0189

Foreclosure and redemption revisions.

Sponsored by: Representative(s) Stubson and Senator(s)  
Ross

A BILL

for

1 AN ACT relating to real property; specifying conditions  
2 under which a foreclosure sale may be rescinded; amending  
3 redemption periods for agricultural land; amending the  
4 manner in which foreclosed distinct lots or tracts are  
5 sold; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming;*

8

9 **Section 1.** W.S. 1-18-115 is created to read:

10

11 **1-18-115. Rescission of foreclosure sale.**

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13 (a) A judicial or nonjudicial foreclosure sale may be  
14 rescinded in accordance with this section at any time after  
15 the sale but before the sheriff's deed has been recorded.

16

1           (b) If the purchaser at the foreclosure sale was the  
2           foreclosing mortgagee, then the foreclosing mortgagee may  
3           rescind the sale for any reason by executing and recording  
4           a notice of foreclosure sale rescission in the office of  
5           the county clerk of the county where the real estate is  
6           located.

7

8           (c) If the purchaser at the foreclosure sale was not  
9           the foreclosing mortgagee, then the foreclosing mortgagee  
10          and the certificate holder may agree to rescind the  
11          foreclosure sale for any reason. In order to rescind such  
12          a foreclosure sale, the foreclosing mortgagee shall refund  
13          to the certificate holder either an amount agreed upon by  
14          the foreclosing mortgagee and the certificate holder, or  
15          the foreclosure sale bid amount plus ten percent (10%)  
16          interest per annum, calculated daily. In addition, both  
17          the foreclosing mortgagee and the certificate holder shall  
18          execute a notice of foreclosure sale rescission which shall  
19          be recorded in the office of the county clerk of the county  
20          where the real estate is located.

21

22          (d) If the purchaser at the foreclosure sale was not  
23          the foreclosing mortgagee, and the certificate holder will  
24          not agree to rescind the foreclosure sale, then the

1 foreclosing mortgagee may still rescind the sale if the  
2 statutory requirements for the foreclosure sale were not  
3 fulfilled or if the foreclosure sale did not comply with  
4 applicable federal or state law. In order to rescind such a  
5 foreclosure sale, the foreclosing mortgagee shall refund to  
6 the certificate holder the purchase price, plus ten percent  
7 (10%) interest per annum, calculated daily, and the  
8 foreclosing mortgagee shall execute and record a notice of  
9 foreclosure sale rescission in the office of the county  
10 clerk of the county where the real estate is located which  
11 shall recite that the foreclosure sale is being rescinded  
12 pursuant to this subsection. The refund of the certificate  
13 holder's bid amount, plus interest, shall be the  
14 certificate holder's only remedy notwithstanding any other  
15 provision of law.

16

17 (e) Upon recording a notice of foreclosure sale  
18 rescission:

19

20 (i) The mortgage and power of sale which are the  
21 subject of the rescinded sale are revived and the mortgage  
22 may be properly foreclosed in a subsequent foreclosure sale  
23 in compliance with applicable law, and all junior liens and

1 rights of junior lienholders are revived with the same lien  
2 priority as if no foreclosure sale had taken place;

3

4 (ii) The certificate of sale is rendered null  
5 and void as if no foreclosure sale had taken place; and

6

7 (iii) The mortgagor's indebtedness to the  
8 foreclosing mortgagee and all evidence thereof are revived  
9 as of the date of the foreclosure sale and as if no  
10 certificate of sale had been issued, or as otherwise agreed  
11 to by the mortgagor and mortgagee.

12

13 **Section 2.** W.S. 1-18-104(b) and (e) and 34-4-107 are  
14 amended to read:

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16 **1-18-104. Redemption by judgment creditors and**  
17 **others; manner prescribed; subsequent redemptions;**  
18 **possession, rents and profits, common carriers excepted.**

19

20 (b) The redemptioner shall pay to the purchaser or to  
21 the officer conducting the sale, either an amount agreed  
22 upon by the purchaser and the redemptioner, or the amount  
23 bid with interest at ten percent (10%) per annum from the  
24 date of sale, and the amount of any assessments or taxes

1 and the amount due on any prior lien which the purchaser  
2 may have paid after the purchase, with interest. If the  
3 purchaser also has a lien prior to that of the  
4 redemptioner, the redemptioner shall also pay the amount of  
5 the lien with interest.

6

7 (e) The execution debtor in case of a sale on  
8 execution, and the mortgagor or owner in case of a mortgage  
9 foreclosure, is entitled to possession of the lands sold  
10 and to the rents and profits for a period of three (3)  
11 months after the sale unless the property is agricultural  
12 property in which case the entitlement to possession of the  
13 lands sold and to the rents and profits shall be for a  
14 period of twelve (12) months after the sale. At the  
15 expiration of three (3) months from sale of nonagricultural  
16 land and twelve (12) months from sale of agricultural land,  
17 the purchaser is entitled to possession and to the rents  
18 and profits of the lands until redemption is made from him,  
19 and each redemptioner until another redemption is made is  
20 likewise entitled to possession and to the rents and  
21 profits.

22

23 **34-4-107. Manner in which distinct tracts or lots**  
24 **sold.**

1

2 If the mortgaged premises consist of distinct tracts or  
3 lots, ~~they shall be first offered~~ the foreclosing mortgagee  
4 may offer for sale separately, ~~and no more~~ sufficient  
5 tracts or lots as shall be ~~sold than shall be~~ necessary to  
6 satisfy the amount due on such mortgage at the date of the  
7 notice of sale, with interest and costs and expenses  
8 allowed by law, ~~provided, however, that in the event the~~  
9 ~~aggregate of bids on such distinct tracts or lots is not~~  
10 ~~sufficient to satisfy said amount due, all such distinct~~  
11 ~~tracts or lots shall be offered and~~ or the foreclosing  
12 mortgagee may offer all such distinct tracts or lots to be  
13 sold as a whole.

14

15 **Section 3.** This act is effective July 1, 2011.

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(END)